

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:06-CR-128

v.

HON. ROBERT HOLMES BELL

ANTHONY CORNELL RIMPSON,

Defendant.

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MEMORANDUM OPINION AND ORDER

Defendant Anthony Cornell Rimpson filed a motion for retroactive application of Guidelines Amendment 750 (ECF No. 122) pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to cocaine base (crack cocaine). He also filed a motion for modification or reduction of sentence (ECF No. 135) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines. Both Amendments were made retroactive by the Sentencing Commission.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 750 of the United States Sentencing Guidelines modified U.S.S.G. § 2D1.1, the Drug Quantity Table with regard to cocaine base (crack cocaine), and U.S.S.G. § 2D2.1(b).

Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11.

The Probation Department originally filed a Probation Sentence Modification Report in response to Defendant's Amendment 782 motion on June 1, 2015 (ECF No. 149), recommending no reduction in sentence as the guideline range applicable under the 2014 drug amendment had not been lowered. Counsel for Defendant Rimpson filed a response to the Sentence Modification Report (ECF No. 151) on June 17, 2015, not objecting to the conclusion reached by the probation department. On June 23, 2015, the court entered an opinion and order denying the Amendment 782 motion. The Defendant filed an appeal which was affirmed by the Sixth Circuit on May 23, 2016.

After further review of this matter, it appears the Sentence Modification Report dated June 1, 2015 (ECF No. 149) is incorrect. The report incorrectly states this defendant's criminal activity involved 19,275.2 kilograms of marijuana equivalent, which would make defendant ineligible for a sentencing reduction pursuant to Amendment 782.

The Probation Department filed an AMENDED sentence modification report on June 14, 2016 (ECF No. 170). In the amended report, probation finds that the specific quantities for which Mr. Rimpson was held responsible are:

12.46 kilograms powder cocaine, equal to 2,492 kilograms marijuana;
765.45 grams crack, equal to 2,733.42 kilograms marijuana; and
1.47 kilograms of heroin, equal to 1,470 kilograms of marijuana.

The total marijuana equivalent for Defendant is actually 6,695.42 kilograms of marijuana. A base offense level of 32 is for offenses involving at least 3,000 but less than 10,000 kilograms or marijuana.

The Amended report recommended that the defendant is eligible for reduction in sentence to 145 months' imprisonment. Reducing Defendant's sentence as recommended would comply with the 782 Amendment, as well as the pending motion filed by the defendant, pursuant to 18 U.S.C. § 3582(c)(2) on the basis of Amendment 750 of the Sentencing Guidelines, made retroactive by the Sentencing Commission.

NOW THEREFORE, IT IS HEREBY ORDERED that this Court's Memorandum Opinion and Order denying Defendant's Amendment 782 motion dated June 23, 2015 (ECF Nos. 153 and 154) are **WITHDRAWN**. Defendant's Amendment 782 motion for modification of sentence (ECF No. 135) is **REINSTATED** and **GRANTED**.

IT IS FURTHER ORDERED that Defendant's Amendment 750 motion for modification of sentence (ECF No. 122) pursuant to 18 U.S.C. § 3582(c)(2) is **GRANTED**. Anthony Cornell Rimpson's sentence shall be reduced to **145 months**. An order effectuating the sentence reduction shall issue forthwith.

Dated: June 17, 2016

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE